

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RANDALL SAMFORD, SR,	§	
#2032217,	§	
<i>Movant,</i>	§	
	§	
v.	§	Civil Action No. 3:20-CV-2167-X-BK
	§	
STATE OF TEXAS,	§	
<i>Respondent.</i>	§	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND
RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made Findings, Conclusions, and a Recommendation in this case [Doc. No. 5]. No objections were filed. The Court reviewed the proposed Findings, Conclusions, and Recommendation for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate.

IT IS THEREFORE ORDERED that the *pro se* petition for writ of error *coram nobis* should be **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction.

“Ordinarily, a certificate of appealability is not required to appeal the denial of a petition for a writ of error *coram nobis*.” See 28 U.S.C. § 2253(c)(1); *United States v. Gallardo*, 773 Fed. Appx. 798, 799 (5th Cir. 2019); *Rodriguez v. Johnson*, 244 F.3d 136, 2000 WL 1901607 (5th Cir. 2000) (unpublished per curiam) (citing *United States v. Dyer*, 136 F.3d 417, 429 n. 32 (5th Cir.1998) (refusing to apply habeas law to a

coram nobis case)). The Court prospectively **CERTIFIES**, however, that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3). In support of this certification, the Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions, and Recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). Based on the Findings and Recommendation, the Court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).¹ In the event of an appeal, Petitioner may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; FED. R. APP. P. 24(a)(5).

IT IS SO ORDERED this 5th day of November 2020.



BRANTLEY STARR
UNITED STATES DISTRICT JUDGE

¹ Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order. A timely notice of appeal must be filed even if the court certifies an appeal as not taken in good faith.